IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.498 OF 2007

Sayed Mustafa Madaar ...Appellant
vs.
Subhran Singh Sitaram Jathaw & Ors. ...Respondents

Mr.A.Y.Sakhare, Sr.Counsel i/b M/s Y.K.S.Legal for the Appellant
Mr.G.S.Godbole for Respondent No.3
Mr.M.S.Mhambre for Respondent 4.

CORAM: A.S.OKA,J.
DATE : JUNE 27, 2007.

P.C.:

1. Heard learned Senior Counsel for the Appellant-Plaintiff. By the order impugned in this Appeal, prayer made by the Appellant-Plaintiff for grant of ad-interim injunction has been rejected.

2. The learned Senior Counsel for the Appellant has made extensive submissions. Notice of Motion is still pending in the trial Court. The Trial court has given reasons for rejecting the prayer for ad-interim relief. One of the reasons recorded is that the alleged mortgage is executed in the year 1996 and the present suit is filed in the year 2007. The order declining to grant ad-interim relief is always a discretionary order. The reasons which are assigned by the learned trial Judge for not granting ad-interim relief are certainly relevant and germane. I am not dealing with the various submissions made by the learned counsel for the Appellant as any finding recorded by this Court on the basis of the said submissions may cause prejudice to either parties.

Suffice it to say that no case is made out for interference with the ad-interim order. It is, however, clarified that all further transactions in respect of the property in dispute will be subject to further orders which may be passed in the Notice of Motion.

3. Hence, I pass the following order :

i) Appeal is dismissed with no order as to costs.

ii) The Trial Court is directed to decide the Notice of Motion No.1930 of 2007 as expeditiously as possible and in any event within a period of four weeks from the date of production of an authenticated copy of this order.

iii) All further actions or transactions, if any ,in respect of the suit property will be subject to further orders which may be passed in the Notice of Motion and in the pending suit.

iv) The learned Trial Judge will decide the Notice of Motion without being influenced by the reasons recorded in the impugned order and the confirmation thereof by this Court.

v) Parties and the concerned court to act upon an authenticated copy of this order.

JUDGE